

Meeting Summary
Negotiated Rulemaking Advisory Committee for Dog Management at
Golden Gate National Recreation Area (GGNRA)

Meeting #6
Thursday, April 5, 2007
3:00 p.m. – 7:30 p.m.
Officers Club, Upper Fort Mason, San Francisco, CA

Committee Members and Alternates: Cynthia Adam, Carol Arnold, Gordon Bennett, Carol Copsey, Anne Farrow, Arthur Feinstein, Jeri Flinn, Joe Hague, Mark Heath, Karin Hu, Paul Jones, Laurie Kennedy-Routhier, Steven Krefting, Cindy Machado, Keith McAllister, Linda McKay, Joanne Mohr, Elizabeth Murdock, Bob Planthold, Brent Plater, Christine Powell (Designated Federal Official), Holly Prohaska, Judy Teichman, Martha Walters.

National Park Service (NPS) Staff: Mai-Liis Bartling, Sarah Bransom, Ozola Cody, Barbara Goodyear, Sandra Hamilton, Daphne Hatch, James Marks, Noemi Marshall, Marybeth McFarland, Bill Merkle, Shirwin Smith.

National Park Service contractors: Juanita Barboa.

Facilitation Team: Greg Bourne, Michael Harty, Catherine McCracken.

Documents distributed to Committee members and alternates on the Negotiated Rulemaking Advisory Committee for Dog Management at GGNRA (Committee) prior to and at the meeting are listed in Attachment A. Five members of the public attended all or part of the meeting. The discussion followed the issues and general timing described in the meeting agenda.

Review Meeting Agenda and Objectives

The facilitator reviewed portions of the Committee protocols and reminded Committee members that a commitment to openness about topics and ideas under discussion is essential to building consensus and does not imply endorsement.

Action: The Committee adopted the proposed agenda: review and adoption of September 21, 2006 meeting summary, updates since previous meeting (Committee protocols, presentation on 2006 NPS Management Policies), report from Facilitation Team and Technical Subcommittee on progress, presentation from Technical Subcommittee on a hypothetical Starting Point to highlight key issues, presentation from National Environmental Policy Act (NEPA) Team on approaches to voice control and Regulated Off-Leash Dog Areas (ROLAs), Committee discussion and deliberation on ROLA Characteristics, Starting Points, and building consensus on alternatives for NEPA analysis, next steps for Committee, and public comment.

Approval of September 21, 2006 Meeting Summary

The purpose of meeting summaries is to provide a shared record of discussion topics, key interests, and decisions, and not a verbatim transcript of the Committee's discussions. After draft Meeting Summaries are approved by the Committee they will be made available to the public through the NPS Planning, Environment and Public Comment (PEPC) website: <http://parkplanning.nps.gov/goga>, at Negotiated Rulemaking for Dog Management at GGNRA, Document List.

A Committee member requested that past meeting summaries be reviewed to ensure that action items have been addressed (for example, providing acreage estimates for the Parameters IIA and IIB areas under discussion in the process).

Action: The Committee adopted the September 21, 2006 Meeting Summary and attachments; the Facilitation Team will review previously adopted meeting summaries to identify any pending action items.

Updates on Activities since Previous Meeting

1. Mai-Liis Bartling (GGNRA Deputy Superintendent) addressed the Committee about a clarification of Committee protocols from her and GGNRA Superintendent Brian O'Neill that was sent via email to Committee members on March 16, 2007 by Christine Powell, the Designated Federal Official (DFO) for the Committee. A copy is attached to this meeting summary. This clarification of the protocols was discussed at the March 29, 2007 Technical Subcommittee meeting and Subcommittee members asked that it be an agenda item at this Committee meeting. The clarification reflects NPS concern that external activities are disrupting the negotiated rulemaking process, and its obligation to protect that process. Bartling noted that the Committee is more than halfway through its 2-year charter and needs to focus on developing recommendations that can be forwarded to NPS for NEPA analysis. Any Committee member who does not feel that they can follow the protocols is free to withdraw from the Committee. Bartling expressed GGNRA's appreciation for the Committee and Subcommittee members' voluntary membership and work.

One Committee member expressed his view that the Negotiated Rulemaking Act requires consensus adoption of Committee protocols, the final version of the protocols previously adopted doesn't contain media prohibitions, and that individuals shouldn't have to give up their ability to pursue issues in other forums as a safeguard to protecting interests. Some other Committee members expressed concerns about media prohibitions, noting that the media are very focused on GGNRA dog management issues and that there seems to be competing guidance on this topic. The DFO acknowledged these concerns and advised that the Park's clarification of Committee protocols was reviewed with U.S. Department of Interior legal and policy staff.

2. Barbara Goodyear (Office of the Solicitor, U.S. Department of the Interior) reviewed Federal legal authorities relevant to the design and evaluation of options for dogwalking in the GGNRA, including NPS statutes, regulations, and policies. She highlighted the Organic Act, GGNRA enabling legislation, and legal rulings. NPS 2006 Management Policies provide the most relevant guidance for the committee as they address the areas under discussion in the

negotiated rulemaking process. Handouts from the NPS 2006 Management Policies were provided to the Committee on the following topics:

- Section 1.4.7 – Decision-making Requirements to Identify and Avoid Impairments;
- Section 1.4.71 – Unacceptable Impacts;
- Section 1.4.7.2 – Improving Resource Conditions within the Parks;
- Section 1.5 – Appropriate Use of the Parks
- Section 1.6 – Cooperative Conservation Beyond Park Boundaries;
- Section 8.1 – General;
- Section 8.1.1 – Appropriate Use;
- Section 8.1.2 – Process for Determining Appropriate Uses; and
- Section 8.2 – Visitor Use.

The primary obligation of the NPS is to manage for resource conservation. NPS will not allow impairment of park resources, and avoids impacts or uses that would cause unacceptable impacts. Existing information such as data, studies, park planning documents and site-specific plans provide guidance for NPS analysis of appropriate uses and goals for specific areas. Recreational uses that are consistent with the NPS mandate of conserving resources may be allowed.

NPS regulations in Title 36 of the Code of Federal Regulations (CFR) address criminal prohibitions in National Parks (e.g., 36 CFR § 2.15 (a)(2) prohibits off-leash dog walking). A special regulation could be drafted so that GGNRA could depart from Section 2.15 (a)(2) in its Dog Management Plan. Goodyear suggested that Title 36 regulations and prohibitions in laws such as the Migratory Bird Act are less useful for the Committee's deliberations on deciding what types of dog walking activities might be allowed in GGNRA because they are criminal prohibitions. She noted that most visitors comply with NPS laws and that no matter how well a plan is designed it is understood that there is a potential for violations to occur. Committee members are not subject to lawsuits that could result from NPS adopting its new GGNRA Dog Management Plan; ultimately NPS is responsible for the final decision even if recommendations from the Committee are adopted in the final GGNRA Dog Management Plan. Issues such as consistency with the Migratory Bird Act, Clean Water Act, and other federal statutes will be considered in the draft Environmental Impact Statement (EIS) as part of the NEPA process. General Management Plans (GMPs) for national parks also provide broad parameters and guidance on appropriate uses in areas or subunits and the GGNRA GMP (currently under revision) can also inform Committee deliberations.

A Committee member noted that GGNRA lands in Pacifica (San Mateo County) were not being considered for off-leash dog recreation and asked who she should contact to request a review of this decision. Goodyear replied that a letter can be submitted to the U.S. Department of the Interior and the Committee member's Congressperson.

Report from Facilitation Team and Technical Subcommittee on Progress Toward Goal of Recommendations on Alternatives for NEPA Analysis

The facilitator summarized the Technical Subcommittee's work since the last Committee meeting in September 2006, as follows:

- The Technical Subcommittee met four times: twice in November, in February, and in March.
- The Subcommittee reviewed extensive information for each of the sites in section IIB of the Parameter (dog walking under voice control, onleash, or no dogs) list of areas under discussion in the negotiated rulemaking process, including Current Conditions, NEPA attributes tables, Management Objectives, and additional data. This information was presented to assist in design and evaluation of potential options for off-leash dog management.
- The Subcommittee agreed on a set of Guiding Principles for use in design and evaluation of options. These are being presented to the Committee for adoption (see Action Item below).
- The Subcommittee agreed on development of Starting Points by representatives of off-leash advocates as a revised process. Representatives from some of the dog groups completed significant work on an initial set of Starting Points for the March 29, 2007 Technical Subcommittee meeting.
- The discussion on the initial Starting Points was challenging as some Subcommittee members felt that certain Guiding Principles were not being considered.
- Subcommittee members also provided input to the Facilitation Team on characteristics for any area proposed as a Regulated Off-Leash Area (ROLA) in GGNRA. No agreement was reached on a mutually acceptable set of ROLA characteristics.

Discussion, questions, and comments from the Committee on the draft Guiding Principles:

- ❖ Definitions are needed to clarify the words and meaning of the Guiding Principles.
- ❖ Some Committee members objected that the Guiding Principles seem to oppose off-leash dog walking as a recreational use and that a Guiding Principle is needed that promotes looking for off-leash areas. It was clarified that dogwalking is part of the term “recreational use” and that Guiding Principle 9 (“Consider historic and social use values”) also implies dogwalking;
- ❖ Some of the Guiding Principles could be used to prohibit dogs in an area. The DFO clarified that there is no intention of completely banning dogs in the GGNRA;
- ❖ Native wildlife may/may not be protected under provisions of the Endangered Species Act; however, other NPS policies (such as the Organic Act) provide protection;
- ❖ The Committee charter is posted on the NPS-PEPC web site as part of the documents provided at the March 6, 2006 Committee meeting;
- ❖ 2006 NPS Management Policies address the issue of impacts; there is a spectrum between no impact and permanent impairment;
- ❖ The Guiding Principles reflect NPS protection mandates, which is why “protect” is used;
- ❖ Concerns about qualifying phrases being added to the Guiding Principles, since NPS rules apply regardless of whether a park setting is urban or not;
- ❖ Consistency with NPS statutes and policies, enabling legislation and current management plans are addressed in the preamble to the Guiding Principles and any recommendations put forth by the Committee are subject to NEPA analysis of consistency;
- ❖ The concept of “unwelcome contact” involving a dog and park visitor needs to be addressed in the Starting Points

- ❖ Upper Fort Mason represents a possible location for a ROLA; and
- ❖ A common sense approach needs to be applied when looking at options within Guiding Principles that use the word “protect”.

The facilitator recommended that the Committee focus on adopting what has been negotiated already by the Subcommittee.

Action: The Committee adopted the preamble and Guiding Principles 1-9 as worded in the March 13, 2007 draft version (see Attachment B).

Presentation from Technical Subcommittee on a Hypothetical Starting Point to Highlight Key Issues

Committee member Linda McKay presented an overview of the rationale and context for the Starting Points approach as well as a hypothetical example of how the approach could be applied to develop Management Measures for a ROLA at a GGNRA beach area.

Discussion, questions, and comments from the Committee on the Starting Points:

- ❖ Clear and adequate signage is critical in all areas;
- ❖ The issue of a lack of physical boundaries/barriers needs to be addressed – how will uses be kept separate?
- ❖ Volunteer support of the Dog Management Plan is called for in the Parameters for the negotiated rulemaking process – some Committee members have doubts about the effectiveness of volunteers from existing advocacy groups and/or questions about the correct model (i.e., umbrella vs. site-specific groups, structures through Golden Gate Parks Conservancy that are less formal than a Restoration Advisory Board model); and
- ❖ Seasonal shorebird peaks and wildlife protection need to be addressed in all Starting Points per the Guiding Principles, especially for beach areas (one option suggested was seasonal onleash/off-leash use).

Action: A copy of the hypothetical starting point presentation will be posted on the NPS-PEPC website. The Facilitation Team will work with the Planning Committee and individual Committee members on developing Starting Points for future Subcommittee meetings. Committee members may follow up with GGNRA staff for additional information regarding interpretation of shorebird data and wildlife protection Management Measures to inform Starting Points development.

Presentation from NEPA Team on Approaches to Voice Control and ROLA

Sarah Bransom (NPS Environmental Quality Division) presented an overview of the NEPA Team’s approach to ROLAs as part of the development of the GGNRA Dog Management Plan EIS. In order for a dog to be off-leash in GGNRA, the conditions providing for that activity must be reasonable to be included in an alternative. Reasonable alternatives need to meet requirements of long-standing NPS management policies, the Organic Act, and other mandates. In addition, reasonable alternatives need to display common sense and meet the plan’s objectives for taking action. She noted that the “traditional approach” to creating

alternatives is problematic in this case as each GGNRA site has differing needs and resource issues. Assumptions need to be made regarding voice control in order to create alternatives; a principal assumption being made by the NEPA Team is that future off-leash use in the GGNRA will differ from the current situation. It is also assumed that not all dogs will behave appropriately if off-leash. Based on investigations of other urban and open space areas the following themes have been identified by the NEPA team:

- Some dogs/guardians can be trained to behave appropriately in a voice and sight control area, whether enclosed or in open space;
- Success factors include “certification” and tagging to achieve stated objectives;
- The number of dogs per guardian must be defined (generally 2-6);
- Partnerships are necessary to train, certify, monitor, clean up, etc.;
- Leashes, collars, licenses and “poop bags” always;
- Consequences for lack of compliance varied from citations, going on leash, recertification, to closing areas to voice control of dogs;
- Monitoring for resource effects and visitor compliance must be included in the plan;
- Adaptive management, including a “default option” if management objectives are not met;
- “Buffers” between dog and wildlife, children, others who do not wish to encounter dog/guardian can range from physical barrier to spatial and temporal;
- A principle of “no uninvited encounters.” For example, the guardian keeps the dog under control unless invited to approach; and
- Regarding birds and wildlife, education is essential (dogs/guardians).

Information was provided to Committee members on the City of Boulder, CO Open Space and Mountain Parks “Leave No Trace Frontcountry Principles” and the city’s Voice and Sight Dog Tag Program (VST) in which “visitors wishing to have their dogs off leash and under voice and sight control are required to have a tag visibly displayed on their dogs. To obtain a tag, a visitor must review a video describing the requirements of voice and sight control and complete a registration form.” An evaluation of the VST by the City of Boulder began in August 2006 and is still underway.

The NEPA Team is in the process of analyzing the No Action alternative as required under the NEPA Act. Further development of alternatives is anticipated in the next three months and the NEPA Team hopes to receive recommendations from the Committee in July 2007. Preliminary impact analysis and internal review of the draft EIS will take approximately four months, with identification of a preferred alternative and environmentally preferred alternative in late 2007. A draft EIS and proposed rule would be released for public review and comment in spring 2008.

Discussion, questions, and comments from the Committee:

- ❖ What is the No Action alternative? (Response: No Action alternative is what is “on the ground” today.)
- ❖ A sensitive wildlife area would need additional measures beyond a dog tag program;

- ❖ How is “buffer” defined? Is it only a space separation without a physical barrier? (Response: Fences are one of the options in the Management Measures Toolbox as buffers)
- ❖ Would the current conditions at Fort Funston be defined as an unenclosed space with off-leash recreation and adjoining buffers?
- ❖ What are the costs involved in the City of Boulder VST Program, both overall management and cost to individual dog owners/guardians?
- ❖ A program for GGNRA based on the City of Boulder VST Program example is far too complicated for our population;
- ❖ The Committee needs to be mindful of literacy issues in the visitor population and making any program and its requirements simple to understand;
- ❖ There are issues related to program credibility if required training is an opportunity for people to make money;
- ❖ Some Committee members were concerned that the VST Program model is being advocated for (Response: The VST Program is only one model and is offered to demonstrate a range of tools and Management Measures that could be implemented for GGNRA);
- ❖ Is part of the NEPA analysis an economic analysis for enforcement and mitigation? (Response: Yes this is included in alternatives analysis)

Action: A copy of this presentation will be posted on the NPS-PEPC website. The NEPA Team has requested a copy of the evaluation report from the City of Boulder VST Program and will provide it to the Committee when available.

Discussion on ROLA Characteristics, Starting Points, and Building Consensus on Alternatives for NEPA analysis

Committee members provided their input regarding “Expectations for Behavior in GGNRA Related to Dogs” and “Confidence in Potential Management Measures Related to Dogs.” The compiled responses are attached (see Attachments C and D).

The facilitator reviewed progress to date on developing ROLA Characteristics and directed the Committee’s attention to the latest version of the document (version dated March 28, 2007). He recommended that the Starting Points approach be continued and that the agenda for the Technical Subcommittee meeting for May 11, 2007 include Starting Points presentations on Crissy Field, Upper Fort Mason, and Fort Funston, and a follow up discussion on Baker Beach, Fort Miley, and Lands End Starting Points presented in March. In addition, he recommended that a series of small meetings among interested Committee members be organized in preparation for the next Technical Subcommittee meeting. These meetings could occur at specific locations in GGNRA to discuss options “in the field” that can inform Starting Points. He noted that the Committee will need to discuss Parameters IIA areas (on-leash or no-dog) areas after deliberations on Parameters IIB areas are complete.

Discussion, questions, and comments from the Committee:

- ❖ Some of the points in the ROLA Characteristics should apply in on-leash areas as well;

- ❖ The issue of physical enclosures or functionally equivalent Management Measures (in lieu of physical enclosures) is central to the ability of the Committee to reach agreements about off-leash dogs. One suggestion is to select a specific location to explore those issues in detail to ascertain if agreements are possible;
- ❖ Another Committee member recommended that the issue of physical enclosures/other Management Measures be explored while Starting Points are being developed;
- ❖ What is GGNRA's enforcement commitment for a Dog Management Program? There is a concern that all responsibility will be "put back on the park" and that enforcement will not be adequate for a Dog Management Program (Response: NPS understands that the Committee needs to discuss enforcement and that enforcement needs to look different in the future; adequate enforcement is an essential part of allowing any activity);
- ❖ It is not realistic to assume that rules can be enforced with 100% certainty;
- ❖ Enforcement issues should be addressed in the Committee's report; and
- ❖ Enforcement is not just citations; it includes a variety of other measures, including community-based enforcement, zero tolerance, education, simple/enforceable/clear regulations, and a "culture change" about dogwalking.

Action: The Facilitation Team will work with the Planning Committee and individual Committee members on developing Starting Points for future Subcommittee meetings. The Facilitation Team will work with GGNRA to discuss options for a future Committee discussion on enforcement issues.

Next Steps

Technical Subcommittee Meeting #7: Friday, May 11, 2007 from 10:00 a.m. to 2:00 p.m. – location TBD.

Technical Subcommittee Meeting #8: Friday, June 8, 2007 from 10:00 a.m. to 2:00 p.m. – location TBD.

Committee Meeting #7: Thursday, June 28, 2007 from 3:00 p.m. to 8:00 p.m. – location TBD.

Action: A confirmation of these dates and meeting locations (when available) will be sent to Committee and Subcommittee members. The Facilitation Team will work with the Planning Team to develop agendas for the Technical Subcommittee meetings and the next Committee meeting.

Public Comment

There were no public comments made at the meeting.

The meeting was adjourned at 7:45 p.m. Copies of written comments submitted to GGNRA at and after the meeting (through October 26, 2007) are attached.

We hereby certify that, to the best of our knowledge, this meeting summary is accurate and complete.

Greg Bourne, Senior Mediator, Center for Collaborative Policy

J. Michael Harty, Principal, Harty Conflict Consulting & Mediation

April 5, 2007 Meeting Summary as adopted at October 27, 2007 Meeting
Negotiated Rulemaking Advisory Committee for Dog Management
Golden Gate National Recreation Area

Attachment A

Documents distributed to Committee members and alternates:

- Meeting #6 agenda (Draft)
- Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area (GGNRA) – Draft (October 20, 2006 version) Meeting Summary of Meeting #5, September 21, 2006
- NPS 2006 Management Policies – Section 1.4.7/Decision-making Requirements to Identify and Avoid Impairments, Section 1.4.71/Unacceptable Impacts, Section 1.4.7.2/Improving Resource Conditions within the Parks, Section 1.5/Appropriate Use of the Parks, Section 1.6/Cooperative Conservation Beyond Park Boundaries, Section 8.1/General, Section 8.1.1/Appropriate Use, Section 8.1.2/Process for Determining Appropriate Uses, and Section 8.2/Visitor Use
- Relation of Federal legal authorities Diagram
- Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area (GGNRA): Guiding Principles for Design and Evaluation of Options (Draft, March 13, 2007 version)
- Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area (GGNRA): Draft Regulated Off-Leash Area (ROLA) Compilation of Proposed Characteristics (Draft, March 28, 2007 version)
- Starting Points Concept, Rationale, Context, and Example – PowerPoint presentation presented by Linda McKay, Committee member
- Definition of Voice Control for Regulated Off-Leash Dog Areas: Select Bay Area and nationwide examples (dated February 16, 2007, prepared by National Park Service Environmental Quality Division)
- Golden Gate National Recreation Area Restoration Projects, 2007-2017 (Draft, dated March 23, 2007 provided by GGNRA)
- GGNRA Negotiated Rulemaking Committee – Confidence in Potential Management Measures Related to Dogs (Draft, dated April 5, 2007 prepared by Facilitation Team)
- GGNRA Negotiated Rulemaking Committee – Expectations for Behavior in GGNRA Related to Dogs (Draft, dated April 5, 2007 prepared by Facilitation Team)
- Compliance with Leave No Trace Frontcountry Principles – A preliminary examination of visitor behavior (Report from City of Boulder, CO Open Space and Mountain Parks, dated July 9, 2002)

- Monitoring Protocol for the Voice and Sight Dog Tag Program (Report from City of Boulder, CO Open Space and Mountain Parks, dated February 28, 2006)
- Golden Gate National Recreation Area, Dog Management Correspondence – handout packet of public comments and letters (dated April 5, 2007)
- Notice on guided hike of Lobos Creek, The Presidio on May 6, 2007 co-sponsored by California Native Plant Society and San Francisco Tomorrow (provided by Bob Planthold, Committee member)
- Copy of newspaper article by Ron Russell, from SF Weekly, “Battle Lines – Richmond residents take aim at plans to expand a medical center they say is already overbuilt,” (April 4-10, 2007 edition)
- Shorebirds Data Packet (dated February 16, 2007):
 1. Occurrence of Shorebirds at Select GGNRA Beaches as Recorded by Beach Watch Surveys, 1993-2006 (table);
 2. Total Number of Surveys by Year (table);
 3. Average Shorebird Density by Month (Birds/Km) (table);
 4. Average Shorebird Density by Month (chart);
 5. Monthly Observed Shorebirds as Percentage of Total Observed (table);
 6. Monthly Observed Shorebirds as Percentage of Total Observed (chart);
 7. Species Richness by Month (table);
 8. Species Richness by Month (chart);
 9. Abundance of Shorebird Species: Overall Average Density (Birds/Km) by Beach (table);
 10. Average Shorebirds Observed/Survey and Average Shorebird Density Across all Beaches, by Month (table and chart)
 11. Average Willet Density by Month (Birds/Km) and Average Marbled Godwit Density by Month (Birds/Km) (tables);
 12. Average Sanderling Density by Month (Birds/Km) and Average Whimbrel Density by Month (Birds/Km) (tables);
 13. Occurrence of Shorebirds, Gulls, and Terns at Select GGNRA Beaches as Recorded by Beach Watch Surveys, 1994-2005; and
 14. Monthly Totals of Observed Birds as Percentage of Overall Total Observed Birds, All Beaches Combined.
- 2001-2006 NPS Law Enforcement Documented Case Reports (sent to Committee members March 6, 2007), replaces the previously distributed “All Other Incidents 2001-2006” document.
- Ocean Beach Snowy Plover Survey Details 1994-2005 and Descriptions of MS Access Reports created from the Ocean Beach Snowy Plover Raw Data (sent to Committee members March 6, 2007), replaces the previously distributed versions.